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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/736,693	12/17/2003	Keiko Chiba	03500.012083.2	5811
5514	7590	03/23/2005	EXAMINER	
FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112			SONG, HOON K	
			ART UNIT	PAPER NUMBER
			2882	

DATE MAILED: 03/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/736,693	CHIBA ET AL.	
	Examiner	Art Unit	
	Hoon Song	2882	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 February 2005.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 14-17 and 19-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 14-17 and 19-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☒ Certified copies of the priority documents have been received in Application No. 08/857,466.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Double Patenting*

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 14 and 19-23 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-21 of U.S. Patent No. 6,317,479B1. Although the conflicting claims are not identical, they are not patentably distinct from each other because the instant claims are anticipated by the claims of the patent as follows:

Regarding claim 14, the patent claims a reflection type mask comprising:

a mask body including (a) a substrate, (b) a multi-layered film which is formed on said substrate, for reflecting X-rays, (c) a pattern which is formed on said multi-layered film for absorbing the X-rays; and

a cover for protecting said pattern,

wherein said cover includes a vent hole having a lid openably closeable to said vent hole, and at least a part of said cover being arranged so as to be detachably attachable to said mask body (claims 14, 16 and 19).

Regarding claim 19, the patent fails to claim said vent hole is formed on a side surface of said cover.

However, It would have been obvious to one of ordinary skill in the art at the time of the invention to form the vent hole on side surface the patent's cover, since the position of the vent hole would prevent any interruption between x-ray irradiation and the mask.

Regarding claim 20, the patent claims an X-ray mask comprising:

a mask body including a pattern for absorbing X-rays; and

a cover for protecting the pattern, which includes a vent hole,

wherein the cover encloses a surface of the mask body, on which the pattern is provided, and another surface opposite to the surface of said mask body, and is arranged so as to be detachably attachable to said mask body (claims 8-10).

Regarding claim 21, the patent claims said mask body includes a membrane on which the pattern is formed and a substrate for supporting the membrane (claim 8).

Regarding claim 20, the patent claims an X-ray mask comprising:

a mask body including a pattern for absorbing X-rays; and

a cover for protecting the pattern, which includes a vent hole,

wherein the cover encloses a surface of the mask body, on which the pattern is provided, and is arranged so as to be detachably attachable to said mask body (claims 14).

However the patent fails to claim the cover is enclosing another surface opposite to the surface of said mask body.

It would have been obvious to one of ordinary skill in the art at the time of the invention to extend the cover to enclose the other surface, since the cover would further protect the mask from dust environment.

Regarding claim 22, the patent claims said cover includes a lid capable of opening and closing the vent hole (claim 19).

Regarding claim 23, the patent claims said X-ray mask is arranged so as to be loaded into a mask cassette in a state in which the cover is attached onto said mask body (claim 14).

Claims 15-17 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 14, 16 and 19 of U.S. Patent No. 6,317,479B1 in view of Chan et al. (US 5570405).

Regarding claims 15-17, the patent fails to claim an alignment mark formed on said multi-layered film.

Chan teaches an alignment mark (24) formed on a mask substrate (10).

It would have been obvious to one of ordinary skill in the art at the time of the invention to adapt the mask of the patent with the alignment mark as taught by Chan,

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since the alignment mark of Chan would easier to align a mask and wafer for lithographic processing.

### ***Conclusion***

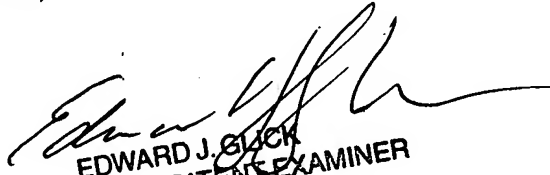
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hoon Song whose telephone number is (571) 272-2494. The examiner can normally be reached on 8:30 AM - 5 PM, Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Glick can be reached on (571) 272 - 2490. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HKS

3/15/05  
HKS

  
EDWARD J. GLICK  
SUPERVISORY PATENT EXAMINER